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REMARKS

Reconsideration of the Application as amended is respectfully requested.

The invention

As defined in the amended claims, Applicant's integrated waterproofing membrane broadly includes a layer of a waterproofing material that is sandwiched between an impervious surfacing material that is directly adherent on one side of the waterproofing material, and a solid porous adherent support on the opposite side. The waterproofing material must be capable of transuding and in fact diffusing portions thereof do indeed transude into and through the porous support so as to contact the surface on which the membrane is applied. A possibility includes the presence of an adhesive either on the adherent support sheet or on the surface on which the membrane is applied.

Claim objection

The term "non transudent" which is non idiomatic as rightfully pointed out by the Examiner has been replaced by the expression - incapable of transuding - which is derived from the verb "transude" meaning "to pass through the pores...". It is believed that this should overcome the objection of the Examiner in this respect.

The correct term - polybutylene - has replaced "polybutyrene" in claim 6, and the word - of - has been inserted before "fiber" in claim 7.

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The above should overcome claim objections made by the Examiner.

Double patenting

Applicant agrees with the comments of the Examiner in paragraph 4 of the Office

Action:

A terminal disclaimer complying with 37-CFR 1.321(c) is herein submitted and will be found as an Appendix to this Amendment.

Claim Rejection under 35 U.S.C. § 102(e)

Claims 1-7, and 10 were rejected under 35 U.S.C. § 102(e) as anticipated by Heifetz.

Applicant respectfully submits that as amended, the above claims are not anticipated by Heifetz and requests favorable reconsideration.

It is agreed that Heifetz' upper layer and bitumen layer may compare to Applicant's impervious surfacing material and layer of waterproofing material, although we have strong reservation. However, these are the only points of comparison.

First, in Applicant's case, the waterproofing material is coated on one side of the layer of waterproofing material with an impervious surfacing material which is directly

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adherent thereto, clearly indicating to one skilled in the art that there is no possible detachment of both layer, contrary to what is being considered essential in Heifetz where local detachment of the two layers relative to one another constitutes "an essential characteristic."

The fact that the two layers in the waterproofing membrane according to the present invention are fixed relative to one another is substantiated when it is stated on page 9, lines 4 - 6 of the specification that the impervious layer must be "capable of stretching with movement of the surface on which it is applied". To stretch as indicated upon movement of the layer of waterproofing material, it is clear and without doubt that it must be firmly bonded to the latter, i.e. no relative movement between the two layers is possible, contrary to what takes place in the product of Heifetz.

Further in her analysis, the Examiner stated that she "is equating Heifetz' reinforcing structure to Applicant's support sheet. With respect, we suggest that the Examiner has misdirected herself in commenting on Heifetz' reinforcing structure, for the latter, contrary to what is suggested, does not appear below the lower surface of the lower flexible layer, but rather above the upper surface where it is sandwiched between the two layers. This is clearly illustrated in Fig. 1a and is fully explained in paragraphs [0114] and [0115] of Heifetz.

With respect to claim 2, the adhesive material has now been "positively claimed" to render the objection moot.

Rejection under 35 U.S.C. 102(4) has therefore been fully traversed.

Claim rejection under 35 U.S.C. § 102(b)

The rejection under 35 U.S.C. § 102(b) of claims 1-7, 9 and 10 as anticipated by EP 0 315 239 A1 has been considered and is respectfully traversed.

In its aspect closest to the present invention, EP 0 315 239 A1 is concerned with a layer of a specific bitumen composition (which constitutes the gist of the invention described and claimed in EP 0 315 239 A1) that is in association with a sheath of organic and/or inorganic material. The sheath is then coated with a metal sheath. If we equate the sheath, the layer of bitumen composition and the metal coating respectively with the porous adherent support, the layer of waterproofing material and the impervious surfacing material (which we consider a totally wrong equation but which is given for the purpose of comparison and discussion), we arrive at the conclusion that the present invention would then consist of a layer of waterproofing material, over which there is a porous adherent support, the latter being covered or coated with an impervious surfacing material. With respect, we suggest that this concept or design is totally outside the heart of the present invention.

Although the above comments would appear to suffice in convincing the Examiner to withdraw her objections, we additionally wish to point out that one of the important characteristics of the present invention consisting in the fact that diffusing portions of the waterproofing material transude into and through the porous adherent support, is totally and completely absent from and is not even remotely suggested both by Heifetz and EP 0 315 239 A1.

We therefore respectfully request the Examiner to set aside her rejections under 35 U.S.C. § 102(e) and (b).

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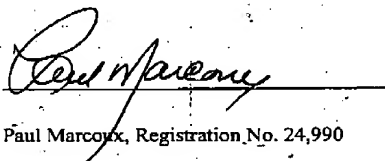
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Claim rejection under 35 U.S.C. § 103

For reasons pointed out and fully discussed above, we totally disagree that EP '239 discloses the claimed invention. Therefore, the addition of up to 40% by weight of a filler in claim 8, would seem to reinforce rather than weaken the claimed invention.

In view of the above amendments and comments, it is now believed that this Application is now in condition for allowance and such an action at an early date is respectfully solicited.

Respectfully submitted,



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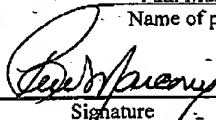
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